IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN

AT JODHPUR

:: JUDGMENT ::

(1) Nathu & anr. Vs. Karnal Singh & others.

S.B.CIVIL MISC. APPEAL NO.680/1994

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(2)Smt.Waji & ors. Vs. Karnal Singh & others.

S.B.CIVIL MISC. APPEAL NO.681/1994

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(3)Mawa & ors. Vs. Karnal Singh & others.

S.B.CIVIL MISC. APPEAL NO.84/1995

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(4)Ram Chandra & anr. Vs. Karnal Singh & others.

S.B.CIVIL MISC. APPEAL NO.83/1995

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(5) Soma Vs. Karnal Singh & others.

S.B.CIVIL MISC. APPEAL NO.82/1995

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(6) Smt.Huraj & ors. Vs. Karnal Singh & others.

S.B.CIVIL MISC. APPEAL NO.600/1994

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(7) Sawa Vs. Karnal Singh & others.

S.B.CIVIL MISC. APPEAL NO.682/1994

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(8) Smt.Keshar & ors. Vs. Karnal Singh & others.

S.B.CIVIL MISC. APPEAL NO.213/1995

(9) Mema & ors. Vs. Karnal Singh & others.

S.B.CIVIL MISC. APPEAL NO.214/1995

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(10) Mema & ors. Vs. Karnal Singh & others.

S.B.CIVIL MISC. APPEAL NO.216/1995

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(11) Homa & ors. Vs. Karnal Singh & others.

S.B.CIVIL MISC. APPEAL NO.217/1995

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(12) Punja & ors. Vs. Karnal Singh & others.

S.B.CIVIL MISC. APPEAL NO.218/1995

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(13) Miss Lila Vs. Karnal Singh & others.

S.B.CIVIL MISC. APPEAL NO.219/1995

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(14) Indira Vs. Karnal Singh & others.

S.B.CIVIL MISC. APPEAL NO.76/1995

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(15) Sukh Lal Vs. Karnal Singh & others.

S.B.CIVIL MISC. APPEAL NO.77/1995

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(16) Soma & ors. Vs. Karnal Singh & others.

S.B.CIVIL MISC. APPEAL NO.79/1995

(17) Kantilal Vs. Karnal Singh & others.

S.B.CIVIL MISC. APPEAL NO.80/1995

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(18) Sukh Lal & ors. Vs. Karnal Singh & others.

S.B.CIVIL MISC. APPEAL NO.78/1995

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(19) Gautam Vs. Karnal Singh & others.

S.B.CIVIL MISC. APPEAL NO.75/1995

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(20) Shiva Vs. Karnal Singh & others.

S.B.CIVIL MISC. APPEAL NO.81/1995

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(21) Phool Chand Vs. Karnal Singh & others.

S.B.CIVIL MISC. APPEAL NO.211/1995

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(22) Hakra Vs. Karnal Singh & others.

S.B.CIVIL MISC. APPEAL NO.212/1995

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(23) Hurji Vs. Karnal Singh & others.

S.B.CIVIL MISC. APPEAL NO.221/1995

(24) Smt.Meera Vs. Karnal Singh & others.

S.B.CIVIL MISC. APPEAL NO.222/1995

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(25) Soma Vs. Karnal Singh & others.

S.B.CIVIL MISC. APPEAL NO.223/1995

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(26) Hurji Vs. Karnal Singh & others

S.B.CIVIL MISC. APPEAL NO.224/1995

(27) Gautam Vs. Karnal Singh & others.

S.B.CIVIL MISC. APPEAL NO.225/1995

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(28) Megji & ors. Vs. Karnal Singh & others.

S.B.CIVIL MISC. APPEAL NO.220/1995

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Date of Judgment :::: 11.09.2006

PRESENT

HON'BLE MR.JUSTICE DINESH MAHESHWARI

Mr. Mridul Jain with Mr.K.C.Sharma for the appellants
Mr.B.L.Bhati, Addl. Government Advocate for the respondent-State.

BY THE COURT:

These appeals by the claimants relate to the same accident and involve a single common question, that too stands concluded by a decision of this Court in a cognate matter being S.B.Civil Misc. Appeal No.683/1994: Rama Vs. Karnal Singh & others, decided on 28.07.2000; hence these appeals were heard together and are taken up for disposal by this common judgment.

The accident in question occurred on 21.05.1986 involving a truck bearing registration No.RJY 4841 driven by Arjun Singh and belonging to Karnal Singh and Jogendra Singh. The appellants herein with several other persons, while returning from a marriage function boarded the said truck after paying fare to the truck driver. The said truck capsized and fell

down in the valley. As a result of the accident, 18 persons died and 12 others sustained bodily injuries. The truck in question was engaged in the relief work of Government of Rajasthan got executed by Public Works Department, Doongarpur but it appears that the same was not insured. The claimants preferred claims for compensation for the loss suffered by them due to the accident arraying the driver and owners of the offending truck and so also the State of Rajasthan as non-applicants. The learned Tribunal made varying awards in the claim cases but rejected the contention of the claimants for mulcting liability upon the State of Rajasthan particularly with the finding that the truck in question was of course taken on hire by the department but the accident occurred neither during the relief work nor for any work connected thereto; and the victims were not the labourers on the relief work.

The present appeals have been submitted by the claimants questioning the aforesaid finding by the Tribunal exonerating the non-applicant State of Rajasthan of liability in respective claim cases.

The same question was raised in the case of Rama (supra) against the award of even date i.e. 31.08.1994 made

by the same Motor Accidents Claims Tribunal, Doongarpur in cognate claim case No.72/1986 relating to the same accident. This Court while rejecting the contention of vicarious liability of the State has held thus:

> "So far as vicarious liability of the State is concerned, there is a presumption that a vehicle is driven on the master's business and by its authorised agents or servants. It was so held in AIR 1966 SC page 1697, Sita Ram Moti Lal Kala Vs. Santanuprasad Jaishanker Bhatt. In view of the fact that driver was an employee of the truck owner, there will be a presumption that driver who carried passengers in the truck was doing business on behalf of his master. Admittedly State is not the master of the truck. Therefore, the State cannot be held liable.
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> Then it was submitted that the State is vicariously liable because it had engaged the truck. But this argument also does not help the appellant as the truck was engaged between 10 A.M. to 5.00 P.M. and it is an admitted fact that the truck was returning after completion of the work and the driver unauthorisedly made passengers sit in the truck. The State cannot be held liable vicariously. Vicarious liability has two chief clauses viz. Master's responsibility for the acts of his servants done in the course of their employment and secondly the representatives of dead who are liable for the deeds done in the flash by those whom they represent. The authority for a servant to act in the course of employment is always implied. When the driver was not the servant of the State of Rajasthan, the State of Rajasthan cannot be held responsible for the act of the driver of vehicle.
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> Consequently, the appeal has no force and it is hereby dismissed. No order as to costs. "

Learned counsel appearing for the claimants-appellants in these appeals could not dispute the fact that in relation to the same accident, the finding by the Tribunal that State was not liable for compensation has already become final. In view of the decision already rendered by this Court in Rama's case (supra), this Court is clearly of opinion that the finding recorded in each of the present cases also deserves to be affirmed. No other question being raised, the awards in question call for no interference.

As a result of the aforesaid, following the decision in Rama's case (supra), these appeals are dismissed with no order as to costs.

(DINESH MAHESHWARI), J.

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